

6-11  
January 7, 1939.

Mr. Eugene Shute,  
Warden, State Prison,  
Florence, Arizona.

## LAW LIBRARY ARIZONA ATTORNEY GENERAL

Dear Sir:

This will be your authority to immediately apprehend one Harry Wells, Convict No. 9319, and return him to the State Prison to serve the remainder of his sentence.

The record of this convict shows that he was sentenced on June 22, 1933 to serve a period of not less than fifteen (15) nor more than sixteen (16) years, and was released supposedly upon the expiration of his sentence on November 5, 1938. Investigation discloses that this release was premature due to an error in computing his time credits.

Section 5318, Revised Code of Arizona, 1928 provides for an automatic deduction of a convict's sentence providing that certain rules are obeyed, and the convict faithfully performs duties assigned to him by the Superintendent.

Section 5319, Revised Code of Arizona, 1923 provides that each day employed in working on the public highways the prison farm or holding a position of confidence and trust outside the prison walls, should be counted as two days in computing time on sentences.

It appears that for several years past, due to the misinterpretation of the above two sections, prisoners' time served has been erroneously computed. For example, under the erroneous interpretation, a sixteen (16) year maximum sentence is automatically cut to a ten (10) year flat sentence the day the prisoner enters the prison due to the good time allowed by Section 5318, supra; then each day served while on two for one is counted two days off this reduced sentence, making it possible for an inmate to serve a sixteen (16) year maximum sentence in five (5) years if the Superintendent grants a position of trust on the day of entry.

We are enclosing a schedule prepared in accordance with the interpretation which this office places upon the law.

*(Schedule in A-99-Parole Bd. file)*

Mr. Eugene Shute -2-

January 7, 1939.

The records show that Harry Wells actually served five years four months and fifteen days. Using the schedule enclosed, we have come to the conclusion that accepting the good time record furnished us by the prison, Harry Wells actually had to his credit, due to good time and two for one allowance, eleven years, three hundred thirteen days (11 yrs. 313 days); therefore it was erroneous to allow him with sixteen years (16 years) credited time.

For the above reasons he must be apprehended and returned to the State Prison to serve the remainder of his sentence.

Very truly yours,

JOE CONWAY,  
Attorney General.